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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,124	07/09/2003	Steve Mace	501329.01	2987

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EXAMINER

NGUYEN, TRINH T

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/617,124

Applicant(s)

MACE ET AL.

Examiner

Trinh T Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 8-26, 32-34 and 40-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 27-31 and 35-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/29/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination under 37 CFR 1.114 After Final Rejection

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/24/04 has been entered.

Election/Restrictions

2. Newly submitted claims 32-34, 40-46 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claims 32, 33, 40, 41, 43, and 44 are directed to one species as indicated in Figure 3 description on pages 8-10 of the specification; and claims 34, 42, 45, and 46 are directed to another species as indicated in Figure 2a description on page 8 of the specification. Further note that Figure 4 description on pages 10-11 of the specification is also directed to another species.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 8-26, 32-34, and 40-46 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3-6, 27, and 29-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Rennard (US 2003/0217665).

Rennard discloses an identifiable ammunition cartridge comprising: a projectile (20) having a first identification surface; a casing (12) that is coupled to the projectile that includes a second identification surface; and an identifier (see Figures 3, 5, 9) positioned on at least one of the first and the second identification surfaces, the identifier includes a code comprised of a plurality of optically identifiable characters, the plurality of optically identifiable characters comprising a combination of alphanumeric characters (see [0043]), the code being identically and repetitively applied to the identification surfaces.

For claim 3, Rennard further discloses the second identification surface comprises an external rim portion of the casing (see Figure 5).

For claim 4, Rennard further discloses the second identification surface comprises a web portion of the casing (see Figure 9).

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For claim 5, Rennard further discloses the code comprises a code prefix and a code body (note that Rennard's code can be considered as a code prefix and a code body).

For claim 6, Rennard further discloses the code prefix ranges from at least one character to three identical characters, and the code body includes at least four characters (note that Rennard's code can be considered as ranges from at least one character to three identical characters, and of at least four characters).

For claim 27, Rennard further discloses an identifiable ammunition cartridge for a firearm, comprising: casing (12) that is coupled to the projectile that includes a first identification surface, wherein the first identification surface comprises a web portion of the casing (see Figure 9); and an identifier positioned on the first identification surface, the identifier further including a code comprised of a plurality of optically identifiable characters, the code being identically and repetitively applied to the first identification surface.

For claim 29, Rennard further discloses the first identification surface further comprises an external rim portion of the casing.

For claim 30, Rennard further discloses the code further comprises a code prefix and a code body.

For claim 31, Rennard further discloses the code prefix ranges from at least one character to three identical characters, and the code body includes at least four characters.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Rennard (US 2003/0217665) in view of Ramsey (US 1,650,908).

For claim 2, Rennard lacks the teaching where the first identification surface comprises a base portion of the projectile. Ramsey teaches a similar identifiable ammunition cartridge as that of Rennard wherein Ramsey's cartridge having the first identification surface (see Figure 1) comprises a base portion of the projectile (1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Rennard's cartridge so as to include the first identification surface comprises a base portion of the projectile, in a similar manner as taught in Ramsey, in order to provide an additional form of identification for the overall cartridge.

For claim 28, Rennard lacks the teaching where the projectile comprises a second identification surface and wherein the identifier is positioned on the second identification surface. Ramsey teaches a similar identifiable ammunition cartridge as that of Rennard wherein Ramsey's cartridge having the projectile (1) comprises a second identification surface and wherein the identifier is positioned on the second identification surface (see Figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Rennard's cartridge

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so as to include the projectile comprises a second identification surface and wherein the identifier is positioned on the second identification surface, in a similar manner as taught in Ramsey, in order to provide an additional form of identification for the overall cartridge.

7. Claims 7 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Rennard (US 2003/0217665) in view of Looger, deceased et al. (US 4,895,076) and Ramsey (US 1,650,908).

Rennard lacks the teaching where the projectile comprises a mass of generally spherically-shaped pellets and a wad positioned within the casing having a third identification surface and wherein the identifier is positioned on the third identification surface.

Looger, deceased et al. teach a similar identifiable ammunition cartridge as that of Rennard wherein Looger, deceased et al.'s cartridge having a mass of generally spherically-shaped pellets (30) and a wad (26) positioned within the casing (12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Rennard's cartridge so as to include a mass of generally spherically-shaped pellets and a wad positioned within the casing, in a similar manner as taught in Looger, deceased et al., in order to provide a more efficient ammunition and thus improve the overall performance.

Ramsey teaches a similar identifiable ammunition cartridge as that of Rennard wherein Ramsey's cartridge having a wad with an identifier positioned on the identification surface. It would have been obvious to one having ordinary skill in the art

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at the time the invention was made to have modified Rennard's cartridge so as to include a wad with an identifier positioned thereon, in a similar manner as taught in Ramsey, in order to provide an additional form of identification for the overall cartridge.

8. Claims 36-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Looger, deceased et al. (US 4,895,076) in view of Ramsey (US 1,650,908).

Looger, deceased et al. lack the teaching where an identifier positioned on at least one of the projectile, casing, and wad, and that the identifier includes a code comprised of a plurality of optically identifiable characters.

Ramsey teaches a similar ammunition cartridge as that of Looger, deceased et al. wherein Ramsey's cartridge having an identifier positioned on at least one of the projectile, casing, and wad, and that the identifier includes a code comprised of a plurality of optically identifiable characters (see Figures 1-5, 11, 14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Looger, deceased et al.'s cartridge so as to include an identifier positioned on at least one of the projectile, casing, and wad, in a similar manner as taught in Ramsey, in order to provide an additional form of identification for the overall cartridge.

Response to Arguments

9. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh T Nguyen whose telephone number is (703) 306-9082. The examiner can normally be reached on M-F (9:30 A.M to 6:00 P.M).

The examiner's supervisor, Teri Luu can be reached on (703) 305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Trinh T Nguyen
Patent Ex.
Art Unit 3644
1/27/05